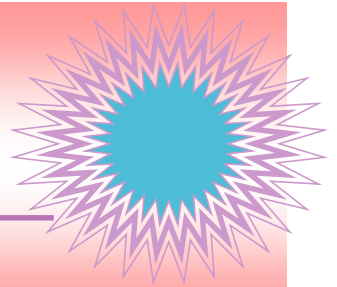


Ethics News

Newsletter of the Indiana State Ethics Commission

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Ethics Web Site Has Common Look

The Indiana State Ethics Commission has joined other state agencies in streamlining the way government services are provided on-line. Under the direction of the state's official Web portal, Access Indiana, the Commission now has a Web site that is well organized and easy to navigate.

Inside...

Front Page

- Common Look

Page Two

- Advisory
Opinions

Page Four

- Unofficial
Advisory Opinions

Page Six

- Ethics Quiz

Page Seven

- Ethics Classes

Kicking off the state's "common look and feel" initiative in a press release issued August 16, 2001, Governor Frank O'Bannon said, "I want state government to be as accessible to Indiana citizens as possible, and making our Web site easy to understand is like providing a familiar sign on a crowded interstate."

The Commission's Web site is designed to become a familiar browsing point both for state employees and others interested in the Commission's activities. Visitors to the site <www.ethics.IN.gov> can access information on investigations, advisory opinions, publications, laws and rules, and training. Employees may register for ethics classes on-line. Ethics trainers and ethics officers may access registration and attendance files through the "Trainer's Corner." Employees are encouraged to review the ethics rules by playing, "A Case of Ethics" and trying to score amongst the top ten players of the week.

If you would like to see additional information added to the Web site or have comments about the site, email: mhill@ethics.state.in.us.

From the U.S. Office of Government Ethics

The Office of Government Ethics (OGE) exercises leadership in the executive branch to prevent conflicts of interest on the part of government employees, and to resolve those conflicts of interest that do occur. In partnership with executive branch agencies and departments, OGE fosters high ethical standards for employees and strengthens the public's confidence that the government's business is conducted with impartiality and integrity.

Amy L. Comstock is the director of OGE. Her article, featured in the "Director's Column" in the spring 2002 issue of Ethics Newsgram, is reprinted with permission of OGE.

We all recognize the importance of leadership in creating a vital ethical culture within an organization. But who are the ethics leaders in a government agency? Clearly, it is crucial to have the support of the agency head, senior political leadership, as well as career executives and managers, in building and maintaining a strong ethical culture. Agency general counsels and, of course, ethics officials themselves provide ethics leadership. But, in my view, no list of ethics leaders in an agency is complete that does not include supervisors.

Supervisors can demonstrate ethics leadership and play a key role in translating broad ethical statements into the daily work of an agency in a number of ways:

- * Supervisors can lead by personal example. Employees may come in contact with their supervisors on a daily basis and often take their cue from them. For example, the way a supervisor handles a gift offered by a prohibited source sends a powerful message to a supervisor's staff.

- * Supervisors can lead by being active ethics spokespersons. Simply paying attention to ethics raises the importance of ethics in the work environment. For example, supervisors can provide information on ethics issues that are specific to the workplace through e-mail or at staff meetings.

- * Supervisors can lead by answering ethics questions raised by their employees. . . . By being receptive to employee questions and prepared to either answer those questions or guide the employee to an agency ethics official, supervisors can play an important role in keeping employees on the right track.

These are a few of the ways in which a supervisor can be a key resource in promoting a greater awareness of ethics concerns and creating a more positive perception of the ethical culture of an agency. Making the fullest possible use of this resource is a challenge for all of us. . . . Bringing ethics to life at the grassroots builds a solid foundation for the executive branch ethics program.

Advisory Opinions

Advisory opinions are given by the State Ethics Commission to determine whether a situation is permissible under the ethics code. Note that an opinion only applies to the individual to whom it is addressed (based on specific facts and laws that applied at the time of the opinion). Requests for opinions may be made by anyone under the jurisdiction of the State Ethics Commission or by the Commission itself. We encourage people to ask before doing something that may raise a question. Ask your supervisor, your ethics officer, or the State Ethics Commission. For more information on requesting an opinion, contact the Ethics Commission or your agency's ethics officer.

No. 02-I-2, Conflict of Interest

June 13, 2002

Background

The State Ethics Commission received a request for an opinion from a state employee who had been contacted by a representative of Nielsen//Net Ratings (Nielsen) for the purpose of tracking her use of the Internet at work. Nielsen software would be installed on the state employee's work computer to track her activity and applications. She would be designated a panel member of the study and would continue in that capacity indefinitely.

Question

Does state ethics law permit a state employee to participate in a study during work time that tracks the employee's use of the Internet for work purposes?

Facts

The state employee uses her computer for letters, correspondence, and counseling notes for her staff. She uses the Internet for e-mail and research. Nielsen is a for-profit company that is tracking Internet use by various groups of workers. The Nielsen organization provided a privacy statement that stated the use of the Internet by those working in public administration is encrypted and reported out as aggregate data only. Nielsen offered to send the employee a \$100 U.S. Savings Bond following installation of the software, and a savings bond every six months of her participation.

Conclusion

The Commission found that it would be a violation of the state ethics conflict of interest rule to allow Nielsen/Net Ratings to place software on a state employee's assigned computer. The Commission concluded that any work product produced by an employee on a state computer was proprietary information that belonged to the state. Moreover, because much of the state employee's work is confidential, Nielsen could potentially profit from the data collected by their software, thereby violating subsection (d) of the conflict of interest rule.

The Commission also found that subsection (f) would be violated in that state equipment would be put to use for a purpose other than state business. And, the Commission found that, because of the unpredictable nature of computer technology, the potential existed for an inadvertent release of confidential information, violating subsection (h) of the rule.

Relevant Law

40 IAC 2-1-9 Conflict of interest; prohibitions

Unofficial Advisory Opinions

This article briefly reviews questions recently addressed by the Ethics Commission staff. These opinions are not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your agency ethics officer or the State Ethics Commission.

#63, Moonlighting, 40 IAC 2-1-8; Conflicts of Financial Interest, IC 4-2-6-9; Criminal Conflict of Interest, IC 35-44-1-3

A parole agent with the Department of Correction (DOC) is interested in becoming a contractor with an outside company that conducts polygraph examinations. The agent, who received training provided by the state in polygraph examinations, is responsible for conducting polygraph tests on sex offenders, who are currently under parole supervision.

Initially, DOC was paying the agent overtime in order to conduct the polygraph examinations. However, due to budget constraints, all overtime has been terminated. DOC has entered into a contract with the polygraph company to oversee the examinations. The parole agent is requesting to contract with the polygraph company as a polygraph examiner and perform the examinations on his days off.

The parole agent has no authority to make any decisions regarding the polygraph company and his caseload does not include any sex offenders. The agent would conduct examinations on individuals currently under parole supervision and not directly under his supervision.

Under these facts presented by the agent, conducting the polygraph examinations does not impair the agent's independence of judgment nor poses a potential conflict of interest. It does not require or create an incentive for the agent to disclose confidential information. The agent may, therefore, conduct the polygraph examinations without violating [40 IAC 2-1-8](#) (Moonlighting).

Since the agent has no input in the selection of the polygraph company, nor supervises anyone who performs these examinations, there is no conflict of interest in connection with the contract under [IC 4-2-6-9](#) (Conflicts of Financial Interest) and [IC 35-44-1-3\(c\)\(7\)](#) (Criminal Conflict of Interest).

Any testing conducted by the agent must be done on his own time and must not result in the use of state property or personnel.

Commission meetings are open to the public and held the second Thursday of the month. Normal starting time is 10:00 a.m.

#63, Moonlighting, 40 IAC 2-1-8; Conflicts of Financial Interest, IC 4-2-6-9; Criminal Conflict of Interest, IC 35-44-1-3

A field technician with a state agency wants to bid on a computer project with her current employer. Her duties, as a field technician, are to assist in the technical aspects of keeping computers working. She has no authority or jurisdiction to make any type of decisions concerning contractors with her agency. Nor does she supervise in any way those who do work under contract.

Under the facts presented by the field technician, proposing to work under contract to perform “network cable drops” from the wall to the server in her agency’s offices, would not:

- impair her independence of judgment;
- pose a potential conflict of interest; nor
- create an incentive to disclose confidential information.

The field technician may, therefore, bid on a contract to perform this work without violating [40 IAC 2-1-8](#) (Moonlighting).

There are no violations regarding [IC 4-2-6-9](#) (Conflicts of Financial Interest) or [IC 35-44-1-3](#) (Criminal Conflict of Interest) since the field technician has no input into the selection of a contractor to perform the work, nor does she supervise anyone who performs these tasks.

Again, any work performed by the field technician must be conducted on her own time and must not result in the use of state property or personnel.

#55, Moonlighting, 40 IAC 2-1-8; Conflict of Interest; Prohibitions 40 IAC 2-1-9

A state employee submits articles about one of his agency’s field offices to a regional business publication. The employee is not paid for these articles and submits them to his supervisor for approval before submitting them to the publisher. The employee has been offered an opportunity by the publisher to write paid articles for the publication. The articles would be general in nature and not about the field office. The employee would approach these stories as a part-time feature writer of the publication and not as a state employee. The employee would not interview persons or conduct research for paid feature articles on state time. To avoid even the potential for a conflict of financial interest, the employee must keep his outside employment activities separate from his state job. He may not, for example, use his state computer for drafting or writing the articles.

The employee is not prevented under state ethics laws ([Moonlighting, 40 IAC 2-1-8; Conflict of Interest; Prohibitions, 40 IAC 2-1-9](#)) from participating in this outside activity. However, it is recommended that he discuss his outside employment with his supervisor.

Ethics Quiz

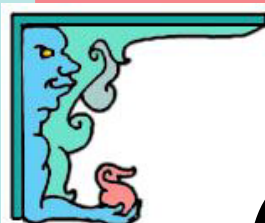
Do You Know When to Call the Ethics Commission?

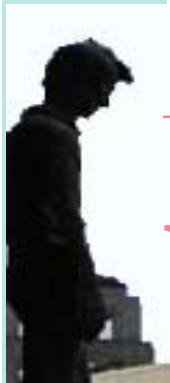


1. If you want to make a complaint against a state legislator, call the Ethics Commission.
2. If you believe someone is sexually harassing you, call the Ethics Commission.
3. If you want to know if you have a conflict of interest that would prevent you from taking a second job outside state government, call the Ethics Commission.
4. If you want to make a complaint against a lobbyist, call the Ethics Commission.
5. If you want to make a complaint against an attorney in private practice, call the Ethics Commission.
6. If you are leaving state government and have questions about what jobs you may seek, call the Ethics Commission.
7. Your neighbor feels he was unjustly fired from a private company for his religious beliefs. Tell him to call the Ethics Commission.
8. You want advice on the nepotism law because your sister wants to apply for a job at your agency, call the Ethics Commission.

Yes	No
Yes	No
Yes	No
Yes	No
Yes	No
Yes	No
Yes	No
Yes	No

See Page Seven For Answers





Answers

(to quiz from page 6)

1. No. The Ethics Commission does not have jurisdiction over state legislators. The Commission has jurisdiction over state employees under the executive and administrative branch of state government.
2. No. Call State Personnel.
3. Yes. You also need to find out about conflicts with unpaid activity as well.
4. No. Contact the Indiana Lobby Registration Commission at (317) 232-9860.
5. No. Call the Disciplinary Commission of the Supreme Court at (317) 232-1807.
6. Yes. There may be agency-specific laws or rules that apply – so long as they do not conflict with state ethics laws and rules. Check with your agency ethics officer to see if any may apply to you.
7. No. Contact the Equal Opportunity Division of Employment Discrimination at (317) 327-5262.
8. Yes. You and your sister could work in the same agency as long as one did not directly supervise the other (see, IC 4-15-7-1).

2002 Ethics Classes Open

Ethics Orientation (10:00 - 11:00 a.m.)	Aug. 21, Sept. 24, Oct. 29
Ethics for Supervisors (10:00 - 12:00 p.m.)	Sept. 11, Oct. 16
Ethics for Managers (10:00 - 12:30 p.m.)	Sept. 12, Oct. 10

Classes are in the State Conference
Center or Training Center
Indiana Government Center South
402 W. Washington St., Indianapolis, IN

Please check directory for room location.

To register, call (317) 232-3850 or visit our
Web site at www.ethics.IN.gov

Please send your questions or comments to: ethics@ethics.state.in.us or call:
(317) 232-3850, or write: Indiana State Ethics Commission
402 W. Washington St., Rm. W189, Indianapolis, Indiana 46204

We are committed to the ethical treatment of those to whom we have an obligation.

– Lockheed Martin